



State of Utah

Department of
Environmental Quality

Dianne R. Nielson, Ph.D.
Executive Director

DIVISION OF SOLID AND
HAZARDOUS WASTE
Dennis R. Downs
Director

JON M. HUNTSMAN, JR.
Governor

GARY HERBERT
Lieutenant Governor

February 28, 2006

Tye K. Rogers, Vice President
Compliance and Permitting
EnergySolutions, LLC
605 North 5600 West
Salt Lake City, Utah 84116

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Subject: Notice of Violation

Dear Mr. Rogers:

Please find enclosed a Notice of Violation (NOV) based on self-identified issues of noncompliance and a finding documented during the inspections of EnergySolutions' South Clive Mixed Waste Facility conducted by authorized representatives of the Division of Solid and Hazardous Waste (the Division) between October 1, 2004 and September 30, 2005.

You are hereby requested to submit to this office on or before March 27, 2006, written verification that the violations noted therein have been corrected. This notification should include an explanation of the steps taken to correct the problems and the corrective actions implemented to ensure that these violations do not recur.

If you have any questions, please contact Mark Christensen at (801) 538-6170.

Sincerely,

ORIGINAL DOCUMENT SIGNED BY DENNIS R. DOWNS ON 2/28/06

Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board

DRD/MEC/tm

Enclosure

c: Myron Bateman, E.H.S., M.P.A., Health Officer, Tooele County Health Department
Loren Morton, UDRC
Eric Johnson, U.S. EPA, Region VIII, ENF-RC

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BEFORE THE UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD

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|-----------------------|---|-----------------------------------|
| In the Matter of: | : | <u>NOTICE OF VIOLATION</u> |
| | : | |
| | : | |
| ENERGYSOLUTIONS, LLC. | : | <u>No. 0601006</u> |
| UTD982598898 | | |

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This **NOTICE OF VIOLATION** is issued by the UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD (the Board) pursuant to the Utah Solid and Hazardous Waste Act (the Act), Section 19-6-101, et seq., Utah Code Annotated 1953, as amended (Utah Code Ann.). The Board has delegated to the Executive Secretary the authority to issue such **NOTICES** in accordance with Subsection 19-6-107 (7) of the Act and R315-12-2.2(a) of the Utah Administrative Code (the Rules).

FINDINGS

1. EnergySolutions, LLC. is a Utah corporation licensed to conduct business in the State of Utah. The EnergySolutions facility is located south of the Clive exit #49 on Interstate 80 in Tooele County. Effective February 3, 2006, Envirocare changed its name from Envirocare of Utah, LLC to EnergySolutions, LLC. The violations alleged in this NOV occurred when the facility was named Envirocare of Utah, LLC. The name "EnergySolutions" is used wherever reasonable in this NOV.
2. EnergySolutions (the Permittee) is a "person" as defined in UCA 19-1-103(4) and is subject to all applicable provisions of the Utah Solid and Hazardous Waste Act, the Utah Administrative Code (Rules) and its Permit.
3. EnergySolutions (then Envirocare) was issued a Hazardous Waste Permit (Permit) to operate a hazardous waste treatment, storage and disposal facility on November 30, 1990. The Permit was reissued effective April 4, 2003.
4. The EnergySolutions' permit identifies the facility's Hazardous Waste Management Units, the wastes it is permitted to handle, and the operating conditions under which EnergySolutions functions.
5. EnergySolutions generates listed and characteristic hazardous waste as defined by R315-2 of the Rules.

6. Authorized representatives of the Utah Solid and Hazardous Waste Control Board (the inspectors) conducted compliance evaluation inspections at the Permittee's facility between October 1, 2004 and September 30, 2005. Based on these inspections and letters from the Permittee that identified non-compliance, the following FINDINGS were documented.
7. In a letter dated December 9, 2005, the Permittee self-identified an instance of noncompliance with Condition V.E.5. of Module V (*Disposal in Landfills*) of the Permit. Condition V.E.5. prohibits the Permittee from placing, in the Mixed Waste Landfill Cells, any hazardous wastes restricted under UAC R315-13-1 which do not meet the treatment standards specified in UAC R315-13-1. Contrary to that condition, waste stream 9320-03, carrying the hazardous waste codes D006 through D009 and F001 (1,920 ft³) from two shipments, requiring treatment, was disposed untreated in the MWLC on July 22, 2005.
8. In a letter dated December 16, 2005, the Permittee self-identified an instance of noncompliance. R315-3-1.1.1(a) states that, "No person shall own, construct, modify, or operate any facility for the purpose of treating, storing, or disposing of hazardous waste without first submitting, and receiving the approval of the Executive Secretary for, a hazardous waste permit for that facility." Contrary to that rule, from October 15, 2005 through November 8, 2005, the Permittee disposed of spent commercial paint stripper (KS Aircraft Remover), rags, rollers etc. having the hazardous waste codes F002 and F003 in the LARW Class A north cell. The LARW Class A north cell is not permitted to receive hazardous waste and mixed waste.
9. In a letter dated February 2, 2006, the Permittee self-identified an instance of noncompliance with Condition 4.b.i. of Attachment II-3 (*Site Inspection Plan*). That condition requires daily measurements, pumping, and visual checks of the leachate collection system for the presence of leachate. Contrary to that condition, the Permittee did not perform those checks of the leachate collection system on January 20, 23, 24, and 25, 2006.
10. Condition VII.2.b. of Attachment II-1 (*Waste Analysis Plan*) requires that standards used in calibration of the pH meter be checked prior to the first analysis of the day to ensure that the expiration dates have not been exceeded. Contrary to that condition, the Permittee used certified buffer solutions pH 2.0 and pH 12.45 after their expiration date on two mixed waste shipments for fingerprint analyses.

DETERMINATION OF VIOLATIONS

Based on the foregoing FINDINGS, EnergySolutions has violated provisions of the Rules and its Permit applicable to its facility. Specifically, EnergySolutions has violated the following:

1. Condition V.E.5. of Module V (*Disposal in Landfills*) by not treating the waste prior to disposal as required. See Finding 7.

2. R315-3-1.1.1(a) of the Hazardous Waste Management Rules by disposing of hazardous waste in a non-permitted LARW Class A north cell. See Finding 8.
3. Condition IV.b.i. of Attachment II-3 (*Site Inspection Plan*) by not performing a daily inspection of the leachate collection system for the presence of leachate. See Finding 9.
4. Condition VII.2.b. of Attachment II-1 (*Waste Analysis Plan*) by using expired buffer solutions for quality control checks of the pH meter. See Finding 10.

OPPORTUNITY FOR HEARING

This **NOTICE OF VIOLATION** is effective immediately and shall become final unless contested within 30 days of issuance through a request for agency action in accordance with R315-2-14(b) of the Rules. Section 19-6-113(2) of the Utah Code Annotated also provides that violators of any order, plan, rule, or other requirement issued or adopted thereunder may be subject to a civil penalty of up to thirteen thousand (\$13,000.00) dollars per day for each day of violation.

Dated this _____ day of February 2006

By: _____

Dennis R. Downs, Executive Secretary
Utah Solid and Hazardous Waste Control Board